

Remarks:

Applicants have read and considered the Office Action dated June 10, 2010 and the references cited therein. Claim 1 has been amended. Claim 14 has been cancelled without prejudice or disclaimer. Claims 1-13 and 15-19 are currently pending. Reconsideration is hereby requested.

Claims 1-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Patel et al. in view of Denyer et al. Applicants respectfully traverse the rejection.

Claim 1 has been amended and recites that the valve and aerosol passage are configured as a single piece. The single piece comprises the valve and the aerosol passage. Applicants note that support for the amendment can be found on pages 8 and 9 of the specification as originally filed.

Applicants assert that the prior art references or any combination thereof fail to teach or suggest that the inhalation valve has an end section clamped between a wall of the aerosol membrane generator and a wall of the mixing chamber. Moreover, claim 1 recites that the inhalation valve is configured in one piece and forms the edge section. The single piece also includes the aerosol passage and the at least one breathing air through opening. Applicants assert that this is neither shown nor suggested by the prior art or any combination thereof. Denyer and Patel fail to teach or suggest such a single piece that creates all of the recited structure and that also creates the recited openings. Such a device provides advantages over the multi-piece construction of the prior art. Applicants assert that claim 1 patentably distinguishes over Patel and Denyer. Applicants therefore request that the rejection over 35 U.S.C. § 103(a) be withdrawn.

Applicants further assert that the claims dependent thereon are also allowable for at least the same reasons and request that the rejection of those claims also be withdrawn.

Claims 18 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Patel at al., in view of Denyer et al. and further in view of Abair et al. The Office Action states that Abair teaches a valve element that is produced from a resilient material and states that it would have been obvious to combine with Denyer and Patel. As discussed above, claim 1 patentably distinguishes over the combination of Patel and Denyer. Applicants assert that Abair fails to remedy the shortcomings of the Patel and Denyer combination with regard to claim 1. Therefore, Applicants assert that claim 1 patentably distinguishes over the combination of Patel, Denyer and Abair. As claim 1 patentably distinguishes over the combination, Applicants assert that claims 18 and 19 also patentably distinguish over the combination for at least the same reasons. Applicants therefore request that the rejection of claims 18 and 19 under 35 U.S.C. § 103(a) be withdrawn.

A speedy and favorable action on the merits is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicant's representative at (612) 336-4728.

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725.



Respectfully submitted,

MERCHANT & GOULD P.C.

Dated: _____

9/10/10

By: _____

Gregory A. Sebold
Gregory A. Sebold
Reg. No. 33,280
GAS/krm